

Rhif y Cais: **14C92F** Application Number

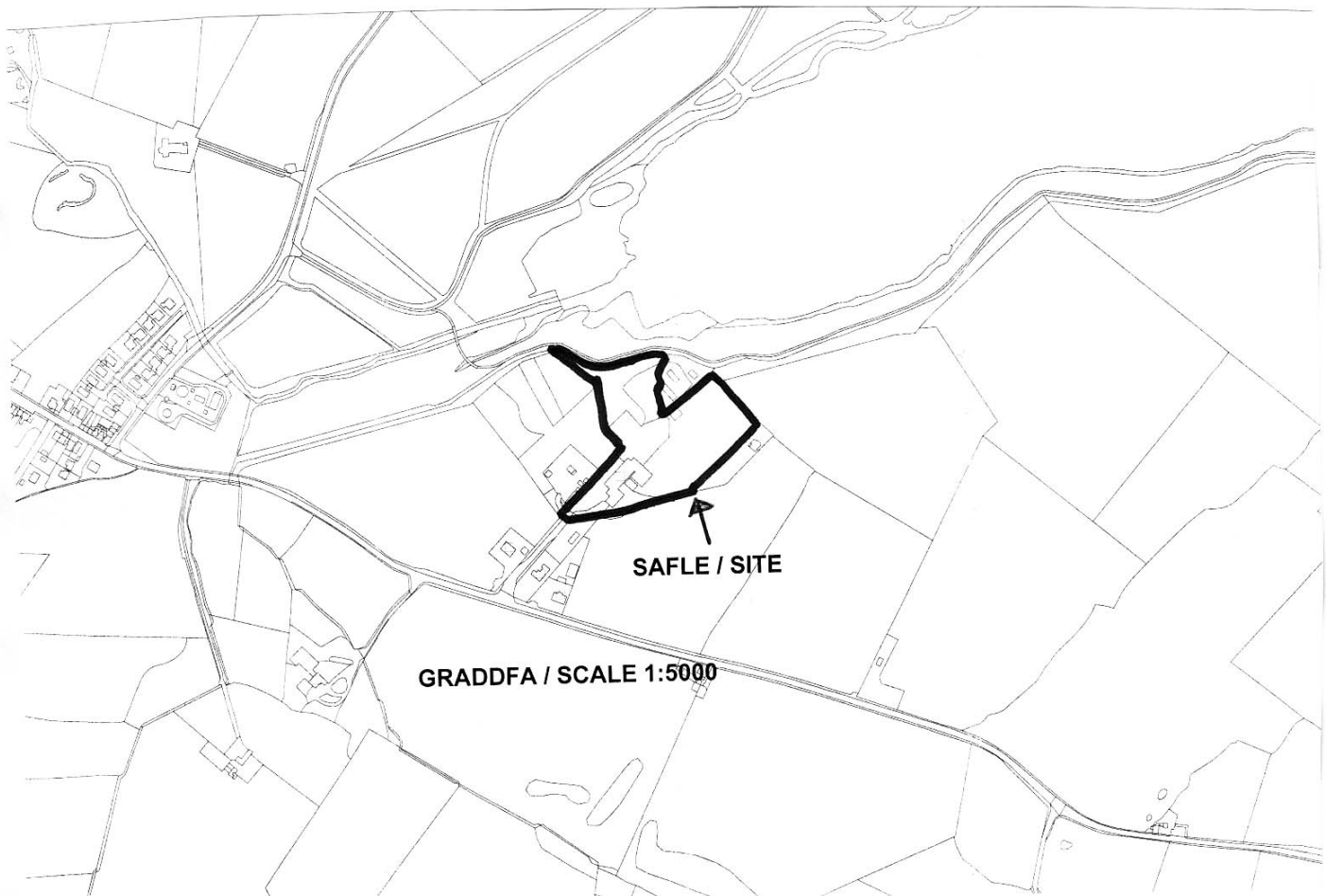
Ymgeisydd Applicant

**Mr. & Mrs. J. A. Jones
c/o Owen Devenport Ltd.
1st Floor
Metropolitan Buildings
25 High Street
Llangenfi
LL77 7NA**

Dileu amod (07) sef: 'Bydd y llety gwyliau a cyfleusterau cysylltiedig a ganiateir trwy hyn yn cael ei gynnal yn un rhywdaith' oddi ar caniatad cynllunio 14C92D yn

Removal of condition (07) being: 'The holiday accommodation and associated facilities hereby approved shall be maintained as one complex' from planning permission 14C92D at

Parc Cefni, Bodffordd



Planning Committee: 27/07/2011

Report of Head of Planning Service (DFJ)

Reason for Reporting to Committee:

This planning application was originally submitted before the Planning and Orders Committee for determination in 2008.

It has always been the applicant's position that he would not sign the Section 106 and stated in his letter dated the 5th February 2008 to the committee that "we will not under any circumstances accept it and shall go to appeal for costs immediately". Having taken these views into account the committee resolved on the 5th March 2008 to;

"accept the officers report and recommendation, i.e. that condition (07) be deleted but that the other conditions of planning consent 14C92D all remain in force (otherwise than as may be deleted through separate application) provided that beforehand a new Section 106 Agreement be completed as recommended by officers in the report".

No appeal followed and over the passage of time an impasse has developed. In order to move things forward the local planning authority has agreed to resubmit the matter back to committee for further consideration.

Notwithstanding the fact that Planning Policy Wales was updated in February 2011 there has been no change in development plan policy since the committee resolution in 2008, nor is it considered that there has been a sufficient change in material circumstances since that time that would warrant a change in recommendation.

The officer's report previously considered and accepted by the committee is therefore reproduced as Appendix 1.

1. Recommendation

The recommendation remains unchanged i.e.

That the application be approved subject to;

i) the other conditions of planning consent 14C92D all remaining in force (otherwise than as may be deleted through separate application).

ii) a new Section 106 agreement being completed.

PLANNING COMMITTEE: 5 March 2008

REPORT OF HEAD OF PLANNING SERVICE (JRW)

N.B. This report is the same as last month's with the addition of an ADDENDUM

REASON FOR REPORTING TO COMMITTEE:

The application is submitted to the committee at the request of the local member and because the applicant is a Councillor.

1. DESCRIPTION OF THE SITE

The site is the former Welsh Water depot at Bodffordd. It is a large site bounded by field hedges and dotted with various buildings previously used for the functions of the water authority. Several holiday units have been erected at the site.

2. DESCRIPTION OF THE PROPOSAL

The application is for the deletion of condition (07) on the consent granted under reference 14C92D for the development comprising the siting of 22 holiday units, the erection of a new restaurant, the change of use of offices into a crèche, leisure facility, café and children's play centre together with the installation of a private sewage treatment plant at Parc Cefni. The condition states

"The holiday accommodation and associated facilities hereby approved shall be maintained as one complex."

KEY ISSUE

Is it reasonable to seek to control this aspect of the development through the use of a planning condition or can this be done better through the existing legal agreement?

3. RELEVANT PLANNING HISTORY

14C92A : Change of use from storage area to offices together with roof alterations at Parc Cefni, Bodffordd : Approved 8/3/04

14C92B : Change of use from offices to hairdressing salon and beauty therapists salon at rooms 1 and 18 Parc Cefni, Bodffordd : Approved 8/3/04

14C92C : Full application for the conversion and part demolition of the outbuildings to provide 3 holiday letting units and owner's accommodation at Parc Cefni, Bodffordd : Withdrawn 27/7/04

14C92D : Change of use of former Welsh Water depot for the siting of 22 holiday units, the erection of a new restaurant, the change of use of offices into a crèche, leisure facility, café and children's play centre together with the installation of a private sewage treatment plant at Parc Cefni, Bodffordd : Approved 27/6/05

14C92E : Conversion of existing outbuildings together with part demolition to provide 3 holiday units and one dwelling at Parc Cefni, Bodffordd : Approved 20/10/04

14C92G: Deletion of conditions (05) and (06) relating to “28 day occupancy” and a “11 month season” at Parc Cefni, Bodffordd,
This application is included on the schedule for determination.

14C92H ; Amended site layout for the erection of 22 holiday units at Parc Cefni, Bodffordd.
Approved 15/06/07.

14C92J; Retention and relocation of the crèche facility within the existing building together with the variation of condition (11) to allow the relocation of the café at Parc Cefni, Bodffordd. Approved 07/02/07.

14C92K; Temporary siting of 3 log cabins for leisure and fitness equipment and 1 log cabin as a reception on land at Parc Cefni, Bodffordd. Approved 07/02/07.

4. MEANS OF PUBLICITY

The application has been publicised by means of site notice and personal notification. The expiry date for the receipt of representations was 30 September 2005.

5. RESPONSE TO CONSULTATION AND PUBLICITY

THE LOCAL MEMBER

Objects to changing the conditions

THE COMMUNITY COUNCIL

Objection – leave as they are. Request for a Language Impact Assessment as the applicant is effectively requesting that the units can be sold to individuals and occupied 52 weeks of the year which would make them permanent dwellings.

Comment; The Planning Service takes the view that an Assessment is not required in association with an application for the deletion or variation of conditions and that it was not required as part of the original application for the creation of 22 units and associated developments as the units were holiday units the purpose of which was to contribute to the local tourism economy in accordance with planning policies.

RESPONSE FROM THE PUBLIC

Letters received from a local resident who questions the accuracy of information supplied by the Authority and who also raises the issue of Language Impact Assessment. Concerns are raised regarding the true intentions of the developer in seeking the deletion of the conditions and the way in which the occupancy of the site as holiday accommodation can be enforced in the absence of controls.

A letter dated 10th January 2006 was also received from the local MP requesting a briefing on the status of the developments at that time.

RELEVANT COMMENTS FROM THE APPLICANT

Letters submitted in support of the application by the agent and applicant are contained on the planning file.

6. RELEVANT POLICIES

GWYNEDD STRUCTURE PLAN

Policy B1 : Employment generating developments
Policy CH1 : Recreation and Tourist development
Policy CH2 : High quality holiday accommodation
Policy D3 : Landscape conservation areas
Policy D4 : Location, siting and design
Policy D29 : standard of design
Policy D32 : Landscaping
Policy FF12 : Parking standards

YNYS MON LOCAL PLAN

Policy 1 : General Policy
Policy 5 : Design
Policy 7 : Rural Buildings
Policy 8 : Holiday Accommodation
Policy 31 ; Landscape
Policy 42 : Design

Supplementary Planning Guidance – Holiday Accommodation (September 2007)

STOPPED UNITARY DEVELOPMENT PLAN

GP1 : General Policy
GP2 : Design
EP4 : Employment Opportunities
EP6 : Reuse of Buildings
TO2 : Holiday Accommodation
TO5 : Site occupancy
EN1 ; Landscape character areas

RELEVANT NATIONAL OR LOCAL POLICY

Planning Policy Wales (March 2002)
TAN 13 : Tourism (1997 & 2006 draft)
DCLG Good Practice Guide on Planning for Tourism (July 2006)
Circular 35/95 : The Use of Conditions in Planning Permissions

7. MAIN PLANNING ISSUES

Policy Background: Of fundamental importance in the assessment of the development of the site and the conditions imposed on the planning consent is the purpose of Policy 8 of the Local Plan and stopped Policy TO2 of the UDP. Paragraph 3.29 of the Local Plan, in support of Policy 8, states

“Tourism and associated recreation provision is important in Ynys Mon, employing about 3000 people. Many other jobs, especially in retailing, service and transport provision, depend partly on business generated by visitors to Ynys Mon. This policy is therefore designed to encourage the development of high quality visitor accommodation in the right place”.

Paragraph 13.15 in support of Policy TO2 states very similarly that

“This policy is designed to encourage the development of high quality visitor accommodation in the right place. In particular, the Council will favourably consider proposals which form an integral part of an overall scheme which adds to tourism and recreation facilities in the area”.

The application was submitted under planning reference 14C92D for a change of use of former Welsh Water depot for the siting of 22 holiday units, the erection of a new restaurant, the change of use of offices into a crèche, leisure facility, café and children’s play centre together with the installation of a private sewage treatment plant and served by a single shared access point. The application was supported under Policy CH2 of the Gwynedd Structure Plan and Policy 8 of the Ynys Mon Local Plan, together with stopped Policy TO2 of the UDP as providing high quality holiday accommodation as part and parcel of a wider scheme of development which would increase the tourism offer on the Island. As redevelopment of a partially brownfield site, the scheme was also considered sustainable.

In assessing the various elements which make up the proposed scheme for the redevelopment of the site, it is clear that the separate elements in themselves would not necessarily be supported in policy terms were they not part and parcel of the wider whole. Elements of the scheme, such as the restaurant which is entirely new build are not justified in this rural location in isolation but are acceptable as part of the managed suite of development which accompanies the 22 holiday units as proposed.

Purpose of the Condition: The purpose of retaining the development as a single planning unit is to ensure that the development is run and managed as a tourist based development where the benefits ensue to the wider economy.

Legal advice is clear that the type of control over the development and future disposal of the site sought under condition (07) of the planning consent reference 14C92D would not satisfy the tests for conditions set by the courts and would be *ultra vires*;

“...the structure of planning legislation is such as to concern itself with the acceptability of the development of land in the public interest. It is not generally concerned with ownership or land interest or, for that matter, implementation...” (Merrit v. Secretary of State for the Environment JPL 2000, 371-384).

It is also clear however that in order to comply with the stated purpose of Policy 8 of the Local Plan and stopped Policy TO2 of the UDP, some form of control over the management of the site is essential. Elements of the scheme are interdependent. The application was submitted as a single scheme of development for the site to support the development of 22 holiday units as high quality visitor accommodation scheme.

A section 106 agreement was completed as part of the planning consent reference 14C92D stating

“that whilst the Property is used for any use comprised in the Development then the Property shall be retained as one planning unit”.

8. CONCLUSION

The crux of the matter is the element of control over the future use and occupation of the site.

Officer advice is that the condition requiring the maintenance of the site as one complex must be deleted as it is not in accordance with Circular guidance.

An agreement under Section 106 of the Town and Country Planning Act 1990 is the appropriate mechanism to control the use of the site and to avoid sale of various elements of the proposal to separate individuals.

Legal advice is that the terms of the existing Section 106 agreement imposed on application 14C92D are ambiguous and do not provide adequate control in this respect.

Subject to a new Section 106 agreement being negotiated, the condition can be lifted.

9. RECOMMENDATION

To approve the application subject to;

- i) the other conditions of planning consent 14C92D all remaining in force (otherwise than as may be deleted through separate application).
- ii) a new Section 106 agreement being completed.

ADDENDUM

This application was deferred at the last meeting to enable further consideration to be given to a letter dated 5.2.08 submitted by the applicant. The letter was distributed to all members at the Committee. The main points are considered below using the applicant's paragraph numbers.

2. The applicant maintains that the whole of the Bryn Cefni site is brownfield. This is accepted and supports the decision to allow the development in the first place.

3. The applicant suggests that a new-build restaurant in a rural area would usually be granted planning permission. He uses the planning permission for a restaurant at the entrance to Parc Cefni as a precedent. This particular planning permission was granted 10 years ago contrary to officer recommendation.

4. It is agreed that the planning condition is unlawful and thus the recommendation to remove it.

6. The applicant claims that there is no policy justification for controlling the ownership nor management of the site. Local Plan Policy 8 states:

"Applications for high quality holiday accommodation will be permitted where they do not conflict with other policies of this plan. In particular, the Council will favourably consider proposals which form an integral part of an overall scheme which adds to tourism and recreation facilities in the area."

Stopped UDP Policy TO2 removes this reference in the Policy itself but includes the following in the Reasoned Justification:

"In particular, the Council will favourably consider proposals which form an integral part of an overall scheme which adds to tourism and recreation facilities in the area."

There is a clear policy intention to encourage holiday complexes with a range of facilities. Indeed this formed a crucial part of the applicant's proposal considered by Committee in 2004.

Since the decision to grant planning permission, the policy position has been clarified in the County Council's Supplementary Planning Guidance (SPG) for Holiday Accommodation adopted in September, 2007.

The SPG considers locational criteria. The one that is most akin to this site is "On brown field sites in the Open Countryside" and in terms of the justification needed to support a proposal states:

"Whilst being preferable to green field locations, such sites would still need justification above alternative locations within or on the edge of settlements in the vicinity. Schemes at such location would be expected to have on-site provision of tourist facilities other than simply the accommodation itself."

The applicant goes on to claim that the Section 106 is unlawful. It is certainly ambiguous and thus the recommendation to replace it with a new agreement under Section 106.

New Section 106 Agreement

A material consideration in the decision to grant planning permission in 2004 was that the proposal consisted of a number of related elements. This added to tourism and recreational facilities in the area. The Committee report stated:

"It is considered imperative therefore that the site remains as a single planning unit in order that the uses remain linked to the main use of the site under which the principle of the development has been accepted and in order to avoid the subdivision of the site into smaller units of ownership and occupation which could erode the nature of the scheme and its acceptability under planning policy. In order to achieve this, it is considered that an agreement under Section 106 of the Town and Country Planning Act 1990 is necessary."

'Occupation' as mentioned in the 2004 report would cover letting to tenants.

If the policy background was open to interpretation at the time when the application was considered, it has now been clarified. As stated above it falls within the category for a brown field site within the open countryside. The SPG states:

"Schemes at such location would be expected to have on-site provision of tourist facilities other than simply the accommodation itself".

Objectives of the Agreement

The purpose of the Section 106 is to maintain the development as one entity by retaining the links between the facilities and accommodation while, at the same time, giving the applicant the flexibility of being able to run the different elements as commercial enterprises. The location of the site in the open countryside means that the uses and appearance need to be monitored and this will be made easier by making one management body responsible.

One option considered was the establishment of a management company. This would be more complicated than retaining the site within a single ownership. The applicant has stated in previous correspondence that it is his intention to lease properties and, therefore the freehold would be retained by the applicant and his successors, this could be provided for in the Section 106.

Heads of Terms

The development to remain within one ownership with no elements to be sold separate from the whole.

The development is managed by one person or company who, on the written application of the Local

Planning Authority, must provide information about the use of the site, their management of the site and the general terms upon which each element of the development is occupied.

The wording of the new Section 106 has been discussed with the applicant. His response is that it would be unlawful to impose a Section 106 on the above terms and asks the Committee to consider removing the condition without imposing a new Section 106.

In view of this it is considered that:

The condition should not be lifted and the matter is dealt with at appeal.

THE RECOMMENDATION REMAINS THE SAME AS IN FEBRUARY

Rhif y Cais: 19LPA925/CC Application Number

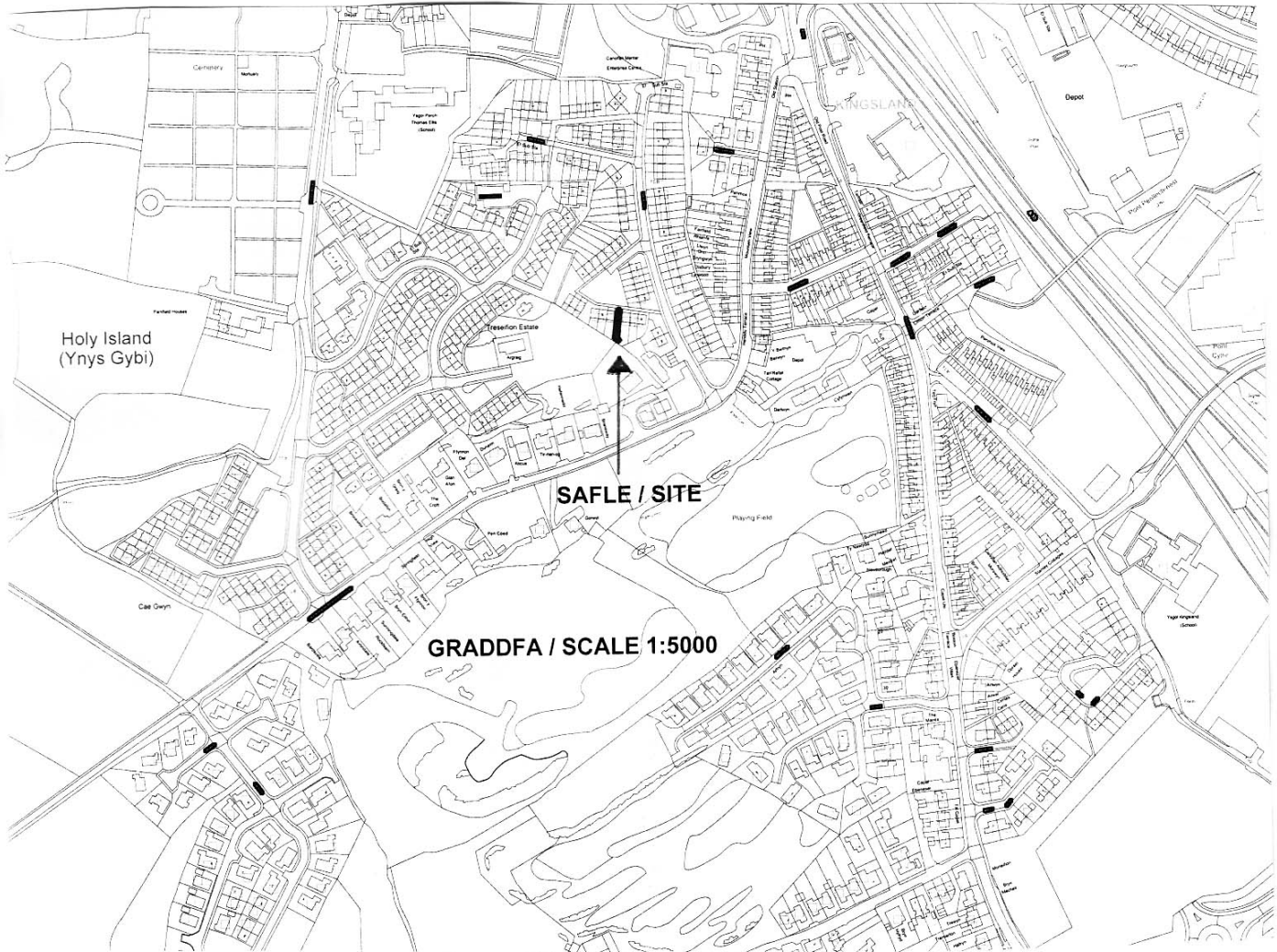
Ymgeisydd Applicant

Head of Service (Property)
c/o RGR Partnership
1st Floor NatWest Bank Building
Glanhwfa Road
Llangefni
LL77 7EN

Codi estyniad yng nghefn

Erection of an extension to the rear of

87, Tan yr Efail, Holyhead



Planning Committee: 27/07/2011

Report of Head of Planning Service (AMG)

Recommendation:

Permit

Reason for Reporting to Committee:

The original application was made by the Local Authority.

Planning permission was granted in July 2010 for the erection of an extension and the applicant has requested to carry out minor amendments to the approved scheme.

1. Proposal and Site

The dwelling is situated within an established estate known as Tan yr Efail, Holyhead. The property is a terraced property.

The proposed amendment consists of changing the render of the proposed extension to Saxon Quarts Spar on Limestone Cream render.

2. Assessment

The proposed amendment is considered to be acceptable and will not have an adverse affect on character of the locality or the amenities of the occupants of nearby properties.

Given the relatively minor nature of the proposed amendment, it is not considered that the proposed changes materially affect the appearance or nature of the scheme as previously approved.

Rhif y Cais: 34C561B Application Number

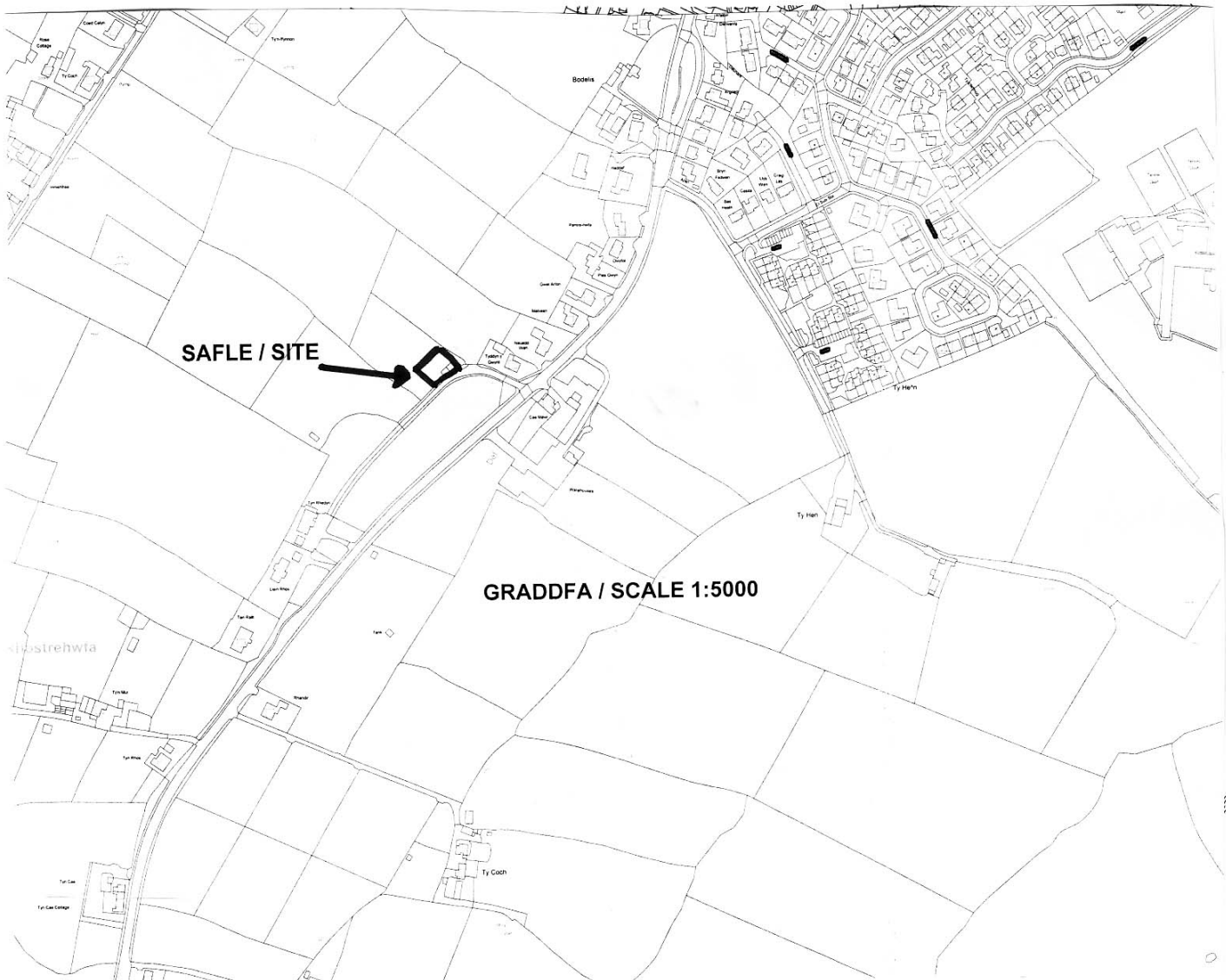
Ymgeisydd Applicant

**Miss. Sara Jones
c/o Berwyn Owen
Owen Devenport
1st Floor
Metropolitan Buildings
25 High Street
Llangefni
LL77 7NA**

Cais amlinellol ar gyfer codi annedd afforddiadwy ynghyd a creu mynedfa i gerbydau ar dir yn

Outline application for the erection of an affordable dwelling together with the construction of a vehicular access on land at

Tyddyn Gwynt, Rhostrehwfa



Planning Committee: 27/07/2011

Report of Head of Planning Service (MTD)

Recommendation:

Reason for Reporting to Committee:

This application was approved previously at committee contrary to Officers recommendation. Members attention is now drawn to an amended plan which has been received which in effect changes the shape of the site. Members direction is required as to whether this is acceptable.

Rhif y Cais: 37C122A/SCR Application Number

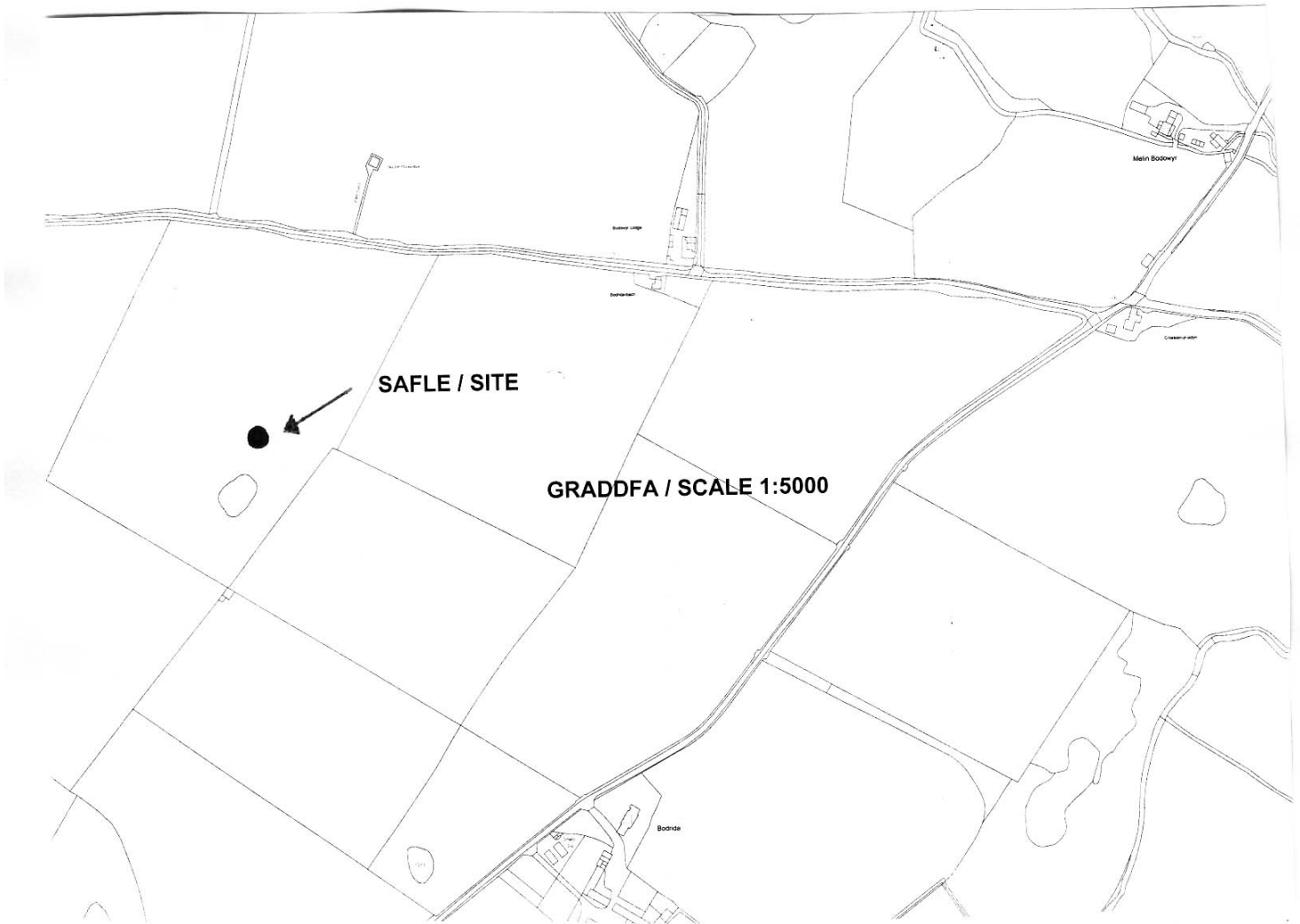
Ymgeisydd Applicant

**Rogers Family
c/o Awel Menai Cyf
'Maes Gwenith'
Ffordd y Pentre
Nercwys
Mold
CH7 4EL**

Barn Sgrinio ar gyfer lleoli melin wynt 500 Kw,
40m o uchder gyda is-gorsaf yn

Screening Opinion for the siting of a 40m high,
500Kw wind turbine and associated sub-station at

Bodrida, Brynsiencyn



Planning Committee: 27/07/2011

Report of Head of Planning Service (EH)

The application has been submitted by the Local Member and his family.

It was determined that an Environmental Impact Assessment would not be required with the submission of a full planning application.

The matter is therefore reported for information purposes only.

Rhif y Cais: 37C170B/SCR Application Number

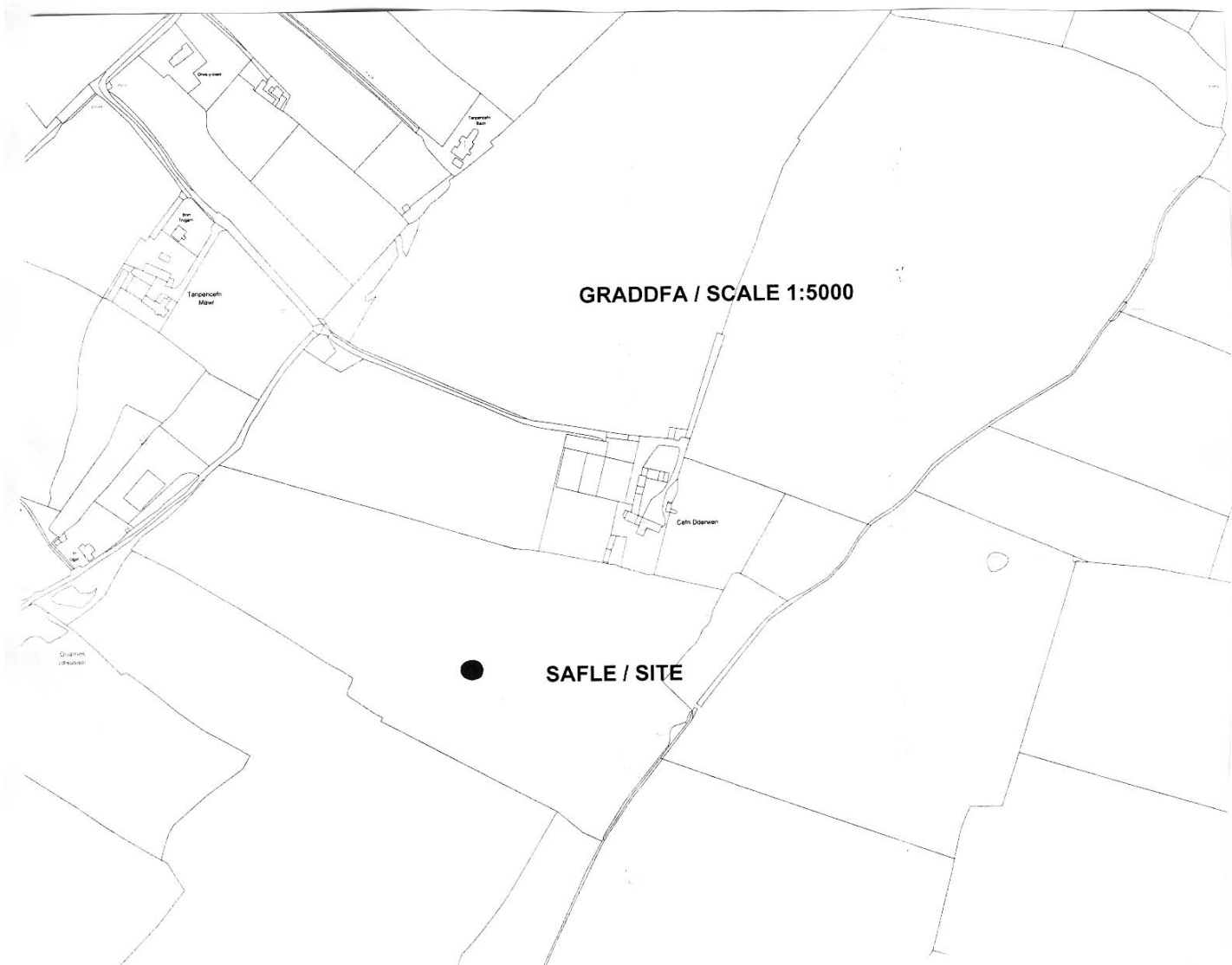
Ymgeisydd Applicant

**Rogers Family
c/o Awel Menai Cyf
'Maes Gwenith'
Ffordd y Pentre
Nercwys
Mold
CH7 4EL**

Barn sgrinio ar gyfer lleoli melin wynt 500Kw 40m
o uchder gyda is-orsaf ar dir yn

Screening opinion for the siting of 40m high 500Kw
wind turbine and sub-station on land at

Cefn Dderwen, Brynsiencyn



Planning Committee: 27/07/2011

Report of Head of Planning Service (EH)

The application has been submitted by the Local Member and his family.

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Planning Committee: 27/07/2011

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